

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.E
Mtg. Date December 6, 2016
Dept. City Attorney's Office

Item Title: **City Manager Employment Agreement Amendment- Lydia Romero**

Staff Contact: [James P. Lough, City Attorney]

Recommendation:

Adopt a resolution (**Attachment B**) approving the Employment Agreement (**Attachment C**) with Lydia Romero, as the City's new City Manager, effective January 1, 2017.

Item Summary:

In Closed Session, the City Council gave direction to the City Attorney to negotiate an Amendment to the City Manager's Employment Agreement to add a Tuition Reimbursement provision. Because of the direction given, the attached Agreement (**Attachment C**) is presented for City Council consideration. All other provisions remain the same.

Adoption of the Attached Resolution (**Attachment B**) will authorize the Mayor to sign the Agreement. Ms. Romero agrees with the terms that are presented.

Fiscal Impact:

Approval of this Contract will not require a change in current budgeted amounts for the City Manager Department. Any use of the tuition reimbursement will be done within current budget allocations.

Environmental Review:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Not subject to review
<input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Negative Declaration
<input type="checkbox"/> Mitigated Negative Declaration |
|--|--|

Public Information:

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> None
<input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Newsletter article
<input type="checkbox"/> Neighborhood meeting | <input type="checkbox"/> Notice to property owners within 300 ft. |
|--|--|---|

Attachments:

- A. Staff Report
- B. Resolution No. 2016-
- C. 2016 Amended City Manager Contract.

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 1.E

Mtg. Date December 6, 2016

Item Title: 2016 Amended City Manager Employment Agreement- Lydia Romero

Staff Contact: James P. Lough, City Attorney

Discussion:

On January 1, 2016, Lydia Romero began service as the City Manager of Lemon Grove. Under the City Manager's employment agreement, the City Council was required to review her performance prior to January 1, 2017. On November 1, 2016, the City Council met in Closed Session to consider her performance. Because of that review, the Council directed the Mayor to meet with Ms. Romero and provide feedback based on the Council discussions.

The Council determined that Ms. Romero's performance merited a compensation increase. However, during discussions between the Mayor and the City Manager, it was jointly determined that the budgetary concerns should be considered and both recommended that the City Council not consider a salary increase.

At its meeting of November 15, 2016, the Mayor reported her discussions with the City Manager. The City Council determined to consider, in open session, a possible Tuition Reimbursement clause to be added to the City Manager's contract. The Mayor and the City Attorney were directed to meet with the City Manager and make a recommendation to the City Council at its December 6, 2016 meeting.

The City Attorney has prepared the attached Resolution and new contract for City Council consideration. The attached contract replaces the City Manager Employment Agreement of January 1, 2016. The only substantive change is the addition of subsection 7.10 (pages 10-11 herein). This change adds the Tuition Reimbursement option for the City Manager.

Tuition Reimbursement pays the actual cost paid for tuition, fees, books and required technical supplies and equipment, to a maximum of \$3,700.00 per fiscal year for classes attended by the City Manager. The City Manager would be refunded to her for professional and technical courses in accredited educational institutions.

In order to be eligible, the City Manager must receive at least a satisfactory rating on her last performance evaluation. The subject matter of the course work has to relate directly to and contributes toward the performance of the CITY MANAGER's position. Programs in Public, Business Administration or equivalent are examples of qualified programs.

The City Manager submits a Request for Tuition Reimbursement form to the Finance Department, who must consult with the City Attorney and/or the City Council if there are questions about whether the classes qualify for reimbursement under this 2016 Amended Agreement. Before receiving reimbursement, the City Manager must furnish proof of payment and evidence that he/she has completed the course with a grade of "B" in graduate work. A grade of "C" or better will be accepted for graduate work from institutions where an average grade of "C" is acceptable

Attachment A

for graduation, or "pass" or "credit" for those classes where a pass/fail or credit/no credit grading system is used.

Except for changes to add 7.10, no other substantive changes are made to the Agreement. There is language that chronicles the findings made to replace a salary increase with the Tuition Reimbursement clause. Also, language is added to the Agreement to reflect that this Agreement supersedes any previous agreements between the parties, either written or oral. With the adoption of the attached resolution, the previous agreement, effective on January 1, 2016, is no longer in effect. The end date of the new contract is the same as the previous agreement, January 1, 2019.

Conclusion:

The City Attorney recommends that the City Council adopt the attached Resolution (Attachment B), which authorizes the Mayor to sign the 2016 Amended City Manager Employment Agreement.

RESOLUTION NO. 2016-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA AUTHORIZING THE MAYOR TO SIGN THE 2016 AMENDED CITY MANAGER EMPLOYMENT AGREEMENT WITH CITY MANAGER LYDIA ROMERO

WHEREAS, the City of Lemon Grove operates a Council-Manager form of government and the City Council desires to retain a highly qualified City Manager to perform the duties set out under Chapter 2.04 of the Lemon Grove Municipal Code; and

WHEREAS, the City Council approved an Initial Employment Agreement with City Manager Lydia Romero, effective January 1, 2016; and

WHEREAS, the City Council held a performance review of City Manager Lydia Romero at its City Council meetings of November 1st and 15th, 2016; and

WHEREAS, after careful review and consideration, the City Council determined that Ms. Romero's performance justified consideration of a salary increase and directed the Mayor to meet with her and discuss the results of the City Council's performance review held at its meeting of November 1, 2016; and

WHEREAS, the Mayor conferred with Ms. Romero and both agreed that, for budgetary reasons, no salary increase would be recommended to the City Council and that other methods should be explored to compensate Ms. Romero for her performance during 2016; and

WHEREAS, after conferring and considering methods of recognizing Ms. Romero's performance, the City Council directed the City Attorney to work with the Mayor to place an amended agreement on the next City Council Agenda a potential amendment that would allow Ms. Romero to pursue educational efforts that would be a benefit to the City of Lemon Grove; and

WHEREAS, the City Council has determined it is in the best interests of the citizens of Lemon Grove to approve the attached agreement and authorize the Mayor to sign on behalf of the City of Lemon Grove.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California hereby:

1. Declares that the foregoing findings are true and correct; and
2. Approves the attached 2016 Amended Employment Agreement (Attachment C) to amend the terms and conditions of employment of Ms. Romero as City Manager of the City of Lemon Grove; and
3. Authorizes the Mayor to sign the attached Agreement.

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2016 AMENDED CITY OF LEMON GROVE CITY MANAGER EMPLOYMENT

AGREEMENT WITH LYDIA ROMERO

THIS 2016 Amended Agreement, effective on the 6th day of December 2016, by and between THE CITY OF LEMON GROVE, hereinafter referred to as "CITY" and LYDIA ROMERO, hereinafter referred to as "CITY MANAGER", hereinafter referred to as the "2016 Amended Agreement", which shall continue to employ the CITY MANAGER under new terms and conditions effective on January 1, 2017.

THIS 2016 AMENDED AGREEMENT is entered into based on the following facts:

A. The City Council has determined that CITY MANAGER has performed to a level that warrants an upward salary adjustment for her 2016 performance; and

C. Because of budgetary concerns, CITY MANAGER desires to forgo any salary adjustment for budgetary reasons and the City Council desires to provide a benefit to CITY MANAGER to reimburse her for expenditures made to further her education in a manner that would mutually benefit the CITY MANAGER and City of Lemon Grove; and

D. City Council and CITY MANAGER mutually agree to terms and conditions set forth in this 2016 Amended City Manager Agreement that supersedes any previous agreements both written and oral, including the January 1, 2016 Agreement between the parties.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations set forth herein, the parties do now agree as follows:

1. EMPLOYMENT.

1.1. The City Council appointed and employed CITY MANAGER, as its City Manager, which employment commenced on January 1, 2016.

1.2. This Agreement replaces the Agreement entered into between the parties, effective on January 1, 2016. Upon the subsequent written agreement of the CITY MANAGER and the CITY, the terms and conditions of this Agreement may be amended from time to time.

1.3. CITY MANAGER agrees that she is employed with the CITY as an "at will" CITY MANAGER. The City Council may terminate her employment in its sole discretion, without cause. There has been no express or implied promise made to CITY MANAGER concerning continued employment and such a promise can arise in the future, if at all, only by a resolution in writing, adopted by the City Council.

1.4. This Agreement and Chapter 2.04 of the Lemon Grove Municipal Code are the sole and exclusive bases for the employment relationship between CITY and CITY MANAGER.

2. TERM OF EMPLOYMENT

2.1. The term of employment of CITY MANAGER under this Agreement shall continue until this Agreement is terminated in accordance with the provisions of this Agreement or this Agreement is amended, whichever shall first occur.

2.2. CITY MANAGER shall be retained as the City Manager of CITY, subject to the terms and conditions of this Agreement, until January 1, 2019.

2.3. If the CITY and CITY MANAGER desire to extend CITY MANAGER's term of employment beyond the term expressed in this Agreement, CITY and CITY MANAGER shall

2016 AMENDED CITY OF LEMON GROVE CITY MANAGER EMPLOYMENT

AGREEMENT WITH LYDIA ROMERO

commence negotiations to extend CITY MANAGER's employment term on or before March 15, 2018.

2.4. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the services of CITY MANAGER at any time, subject only to the provisions set forth in Sections 8 and 9 of this Agreement.

2.5. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of CITY MANAGER to resign at any time her position with CITY, subject only to the provisions set forth in Section 10 of this Agreement.

3. CITY MANAGER'S DUTIES

3.1. CITY MANAGER shall perform the functions and duties specified by the general laws of the State of California, the Lemon Grove Municipal Code, and the ordinances, resolutions, motions and directions established by the City Council, as from time to time may be given.

3.2. Chapter 2.04 of the Lemon Grove Municipal Code relating to the position of the City Manager is incorporated herein by this reference as though fully set forth at length herein and made a part of this Agreement as constituted on the effective date of this Agreement.

3.3. CITY MANAGER shall perform the duties associated with the position of City Manager in accordance with the highest professional and ethical standards of the profession, and in accordance with the rules and regulations established by the City Council.

3.4. As a condition of this Agreement, CITY MANAGER shall file an annual Statement of Economic Interests in accordance with California Law.

3.5. CITY MANAGER shall not engage in any activity, which is, or may become incompatible with the office of City Manager as defined by California law.

3.6. During the term of this Agreement, CITY MANAGER shall not accept any other employment and shall be exclusively employed by CITY, unless prior authorization is received from the City Council, which will not be unreasonably withheld.

4. EVALUATION OF CITY MANAGER'S PERFORMANCE

4.1. At least annually, beginning in 2017, on or before January 1, the City Council shall review and evaluate the performance of CITY MANAGER. Said review and evaluation shall be in accordance with specific criteria developed jointly by the City Council and CITY MANAGER. Said criteria may be added to or deleted from as the City Council may from time to time determine, in consultation with CITY MANAGER. Further, the City Council shall provide CITY MANAGER with a summary written statement of the findings of the City Council and provide an adequate opportunity for CITY MANAGER to discuss her evaluation with the City Council unless the parties agree to otherwise during the evaluation process.

4.2. The City Council and CITY MANAGER shall periodically define such goals and performance objectives, which they determine necessary for the proper operations of CITY and in the attainment of the City Council's policy objectives, and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. Such goals shall be reasonably attainable within the time limitations as specified in the annual operating and capital budgets and appropriations provided.

2016 AMENDED CITY OF LEMON GROVE CITY MANAGER EMPLOYMENT

AGREEMENT WITH LYDIA ROMERO

4.3. In effecting the provisions of this Section 4, City Council and CITY MANAGER mutually agree to abide by the provisions of applicable California law.

5. SALARY

5.1. CITY shall pay to CITY MANAGER for her services rendered under this agreement at an annual rate of One Hundred and Seventy-five Thousand Dollars (\$175,000.00) per year, which shall be CITY MANAGER's base salary, payable in equal installments at the same time as other CITY MANAGERS of CITY are paid. The salary shall be subject to applicable state, local and federal withholdings.

5.2. Subject to a performance evaluation, CITY may, on the beginning of each Calendar Year (January 1st), revise CITY MANAGER's base salary by a resolution amending CITY's budget. Upon adoption of a resolution amending the CITY MANAGER's salary, the salary listed in the latest adopted budget resolution shall act as an amendment to 5.1 , above, as of the effective date listed in the applicable resolution.

5.3. For the purpose of defining "base pay" under Section 8.3.1, herein, the salary established under Section 5.1, above, shall be adjusted by two and one-half percent (2 1/2%) annually. The automatic cost of living adjustment, for the purpose of establishing severance amounts, shall not apply in any calendar year in which CITY MANAGER receives a salary increase.

6. DEFERRED COMPENSATION

6.1. CITY shall, in addition to base salary, and in regular installments, pay an annual total of Six Thousand Dollars (\$6,000) into a deferred compensation plan for the benefit of CITY MANAGER, for each calendar year in which CITY MANAGER is employed by CITY as City Manager.

7. ADDITIONAL BENEFITS

7.1. Vacation. CITY MANAGER shall receive one hundred fifty three (153) hours of paid vacation per year, which CITY MANAGER shall accrue proportionately for each month of employment.

Vacation days may be accrued and carried over on a calendar year subject to the limitations of Council Policy 92-1 adopted by Resolution No. 1422 which limits total accrued vacation time to eight (8) weeks.

7.1.1. Prior to taking more than three (3) consecutive days of vacation time, CITY MANAGER shall advise the City Council of the proposed dates of vacation at least ten days prior to the date of such vacation time, and give the opportunity to any member of the City Council to object thereto. Any City Council member who wishes to object, must do so within three days of receipt of such notice of the proposed dates of vacation. After such an objection, CITY MANAGER shall only take the proposed vacation time if a majority of the City Council approves such vacation time. When CITY MANAGER takes vacation time of three (3) days or less, she must notify the City Council, but approval is not required.

7.1.2. Vacation days may be converted into cash in accordance with the CITY's policy offered to other management CITY MANAGERS. Upon the termination of employment of

2016 AMENDED CITY OF LEMON GROVE CITY MANAGER EMPLOYMENT

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CITY MANAGER, any remaining vacation days shall be converted into cash and paid to CITY MANAGER

7.2. Executive Leave. CITY MANAGER shall be entitled to take six (6) days of Executive Leave each calendar year in accordance with CITY policy relating to its management CITY MANAGERS, which shall accrue proportionately for each month of employment. However, prior to taking more than three (3) consecutive days of Executive Leave, CITY MANAGER must comply with Section 7.1.1. of this Agreement.

7.3. Sick Leave. CITY MANAGER shall be entitled to twelve (12) days of sick leave during each calendar year, accruing proportionately for each month of employment. Unused sick leave shall accrue in accordance with CITY policy relating to its management CITY MANAGERS.

7.4. Retirement Plan. CITY MANAGER shall be eligible to participate in the same retirement plan provided other management CITY MANAGERS of CITY. CITY MANAGER agrees to pay on her behalf, the annual CITY MANAGER contribution and other participant contributions required of an CITY MANAGER under the provisions of such retirement plan.

7.5. Automobile Allowance. CITY MANAGER will use her own personal automobile for official use while employed under the terms of this Agreement. CITY will provide CITY MANAGER with a monthly automobile allowance in the amount of Five Hundred Dollars (\$500). Such allowance is intended to cover the costs of automobile maintenance, gas, oil and insurance. CITY MANAGER shall be responsible for any and all liability for personal injury, property damage, and for operation, maintenance, and repair of said automobile arising out of CITY MANAGER's use of said automobile. CITY MANAGER shall be solely responsible for the payment of all income tax liability, whether federal or state, arising out of CITY MANAGER's receipt of said automobile allowance.

7.6. Other CITY MANAGER Benefits. CITY agrees to provide term life insurance in the amount of Two Hundred and Fifty Thousand Dollars (\$250,000.00) to CITY MANAGER, to be effective within thirty (30) days of the execution of this Agreement. CITY agrees to provide CITY MANAGER with the same holidays, health insurance, flexible benefit plan, dental, long-term disability insurance, and other benefits provided to other management CITY MANAGERS by the CITY. All actions taken by the City Council affecting the benefits of other management CITY MANAGERS of CITY shall be considered actions affecting benefits of CITY MANAGER, and such actions shall be deemed amendments to her Agreement to which CITY MANAGER agrees by execution of this Agreement.

7.7. Professional Membership and Conferences. CITY shall pay for the CITY MANAGER'S professional membership in the International City Manager's Association and in the California League of Cities. In addition, CITY shall pay for CITY MANAGER to attend the Annual Conference of each organization, annually.

7.8. Reimbursable Expenses. CITY shall reimburse CITY MANAGER for all expenses reasonably incurred by him in the discharge of her duties as CITY MANAGER.

7.9 Health Care. CITY shall pay seven hundred and seventy-five dollars (\$775.00) per month of health care costs for CITY MANAGER's personal or family health care coverage.

7.10 Tuition Reimbursement. The actual cost paid for tuition, fees, books and required

2016 AMENDED CITY OF LEMON GROVE CITY MANAGER EMPLOYMENT

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technical supplies and equipment, to a maximum of \$3,700.00 per fiscal year, will be refunded to CITY MANAGER for professional and technical courses in accredited educational institutions provided that:

A. The CITY MANAGER has received at least a satisfactory rating on his/her last performance evaluation;

B. The subject matter of the course relates directly to and contributes toward the performance of the CITY MANAGER's position with the City Programs in Public, Business Administration or equivalent being examples of qualified programs;

C. The CITY MANAGER submits a Request for Tuition Reimbursement form to the Finance Department, who shall consult with the City Attorney and/or the City Council if there are questions about whether the classes qualify for reimbursement under this 2016 Amended Agreement.

D. Before receiving reimbursement, the CITY MANAGER shall furnish proof of payment and evidence that he/she has completed the course with a grade of "B" in graduate work. A grade of "C" or better will be accepted for graduate work from institutions where an average grade of "C" is acceptable for graduation, or "pass" or "credit" for those classes where a pass/fail or credit/no credit grading system is used.

E. The City Manager has received at least a satisfactory rating on her last performance evaluation.

8. TERMINATION OF CITY MANAGER BY CITY COUNCIL WITHOUT CAUSE.

8.1. The City Council may terminate CITY MANAGER's employment with CITY, in its sole discretion and without cause, at any time upon thirty (30) days' written notice to CITY MANAGER.

8.2. As of the date of termination, CITY MANAGER shall be paid for all accrued salary, leave and benefits as if she voluntarily terminated her employment, in accordance with CITY policy offered to other management CITY MANAGERS terminating employment with CITY.

8.3. If the City Council exercises its authority under this Section 8, of the Agreement, CITY shall pay to CITY MANAGER, a monthly severance benefit for a period of six (6) months from the date of termination, in the form of a monthly cash payment equal to:

8.3.1. The monthly installment of CITY MANAGER's current base salary; plus

8.3.2. Thirty percent (30%) of the monthly installment of CITY MANAGER's current annual base salary, in lieu of all other benefits listed in Section 7. of this Agreement [All benefits, including but not limited to, Deferred Compensation and each and every additional benefit listed in Section 7 of this Agreement shall cease when CITY MANAGER's employment is terminated with CITY]; minus

8.3.3. If City Manager begins employment after termination in a full time position with another employer, any income earned by CITY MANAGER from other full time employment (after the date of termination shall be used to reduce the severance paid on a dollar for dollar basis).

8.4. Payments under Section 8.3 of this Agreement to CITY MANAGER will be made in

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equal installments at the same time as other CITY MANAGERS of CITY are paid. No payment of severance benefits shall be made in any month until CITY MANAGER files with the City Treasurer a completed "Statement of Earnings," substantially in the form attached hereto as Exhibit "A"

8.5. At the end of the Six (6) month period during which CITY has an obligation to pay the monthly severance benefit to CITY MANAGER, CITY shall have no further financial obligation to CITY MANAGER.

9. TERMINATION BY CITY COUNCIL FOR CAUSE.

9.1. If this Agreement is terminated by the City Council "for cause", CITY shall have no further obligation to continue the employment of CITY MANAGER. CITY shall have no obligation to provide notice to CITY MANAGER prior to any "for cause" termination or to provide severance benefits to CITY MANAGER after such termination. All payments of salary and benefits provided in this Agreement shall cease, however, CITY MANAGER will be paid all salary and benefits accrued through the date of termination in accordance with CITY policy offered to other management CITY MANAGERS terminating employment with CITY.

9.2. The term "for cause" as used in this Agreement shall mean any of the following: (a) conviction of a felony; or (b) conviction of any illegal act involving moral turpitude or personal gain; or (c) a plea of nolo contendere to any felony or illegal act involving moral turpitude or personal gain; or (d) any act constituting a knowing and intentional violation of CITY's conflict of interest code; or (e) any abuse of office.

10. TERMINATION BY CITY MANAGER

10.1. CITY MANAGER may terminate this Agreement, in her sole discretion, by resigning from the position of the City Manager. CITY MANAGER agrees to provide written notice to CITY of at least Thirty (30) days prior to the effective date of her resignation. CITY shall have no further obligation for any payments of salary, benefits, or severance payments as provided in this Agreement, after CITY MANAGER's termination date. However, CITY MANAGER will be paid all salary and benefits accrued through the date of termination in accordance with CITY policy offered to other management CITY MANAGERS terminating employment with CITY.

11. INCENTIVES TO ACCEPT EMPLOYMENT AGREEMENT

11.1. CITY MANAGER is credited with seventy-six point five (76.5) hours of her one hundred and fifty three (153) hours of paid vacation leave, and, notwithstanding the management compensation plan, credited with a total of six (6) days of her twelve (12) days of sick leave immediately upon commencement of employment. This provision does not add additional hours of paid vacation or sick leave to the total hours of vacation and sick leave as provided under Sections 7.1 and 7.3 of this Agreement, but serves to accelerate CITY MANAGER's accrual of the designated vacation and sick time.

12. RENEGOTIATION PROVISION

2016 AMENDED CITY OF LEMON GROVE CITY MANAGER EMPLOYMENT

AGREEMENT WITH LYDIA ROMERO

12.1. Nothing shall preclude CITY MANAGER from renegotiating the terms and conditions of this Agreement. Such request shall be made in a confidential writing to the Mayor of the City of Lemon Grove. No request to renegotiate shall be made sooner than nine (9) months from the commencement of this Agreement.

13. GENERAL PROVISIONS

13.1. Notices. Notices given under this Agreement shall be in writing and shall be either:

A. served personally; or

B. sent by facsimile (provided a hard copy is mailed within one (1) business day); or

C. delivered by first-class United States mail, certified, with postage prepaid and a return receipt requested; or

D. sent by Federal Express, or some equivalent private mail delivery service.

Notice shall be deemed received at the earlier of actual receipt of three (3) days following deposit in the United States mail, postage prepared. Notice shall be directed to the addresses shown below, provided that a party may change such party's address for notice by giving written notice to the other party in accordance with this section.

CITY: Attn: Mayor Mary Teresa Sessom
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

Copy: James P. Lough
City Attorney
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

MANAGER: Attn: Lydia Romero
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

13.2 Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties as to those matters contained in it, and supersedes any and all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement may be amended at any time by mutual agreement of the parties, but any such amendment must be in writing, dated, and signed by the parties and attached hereto.

13.3 Attorney's Fees. If any legal action or proceeding is brought to enforce or interpret this Agreement, the prevailing party, as determined by the court, shall be entitled to recover

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AGREEMENT WITH LYDIA ROMERO

from the other party all reasonable costs and attorney's fees, including such fees and costs as may be incurred in enforcing any judgment or order entered in any such action.

Nothing in this subsection shall be read to prevent the parties from agreeing to some alternative method of dispute resolution. If such a method is agreed to, any final determination shall include an award of attorney's fees and costs by the presiding officer.

13.4 Severability. In the event any portion of this Agreement is declared void, such portion shall be severed from this Agreement and the remaining provisions shall remain in effect, unless the result of such severance would be to substantially alter this Agreement or the obligations of the parties, in which case this Agreement shall be immediately terminated.

13.5 Waiver. Any failure of a party to insist upon strict compliance with any term, undertaking, or condition of this Agreement shall not be deemed to be a waiver of such term, undertaking, or condition. To be effective, a waiver must be in writing, signed and dated by the parties.

13.7 Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. CITY and CITY MANAGER agree that venue for any dispute shall be San Diego County, California.

13.8 Section Headings. The headings on each of the sections and subsections of this Agreement are for the convenience of the parties only and do not limit or expand the contents of any such section or subsection.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures as of the date and year first above written.

CITY OF LEMON GROVE

By: _____
Mary Teresa Sessom, Mayor

CITY MANAGER

By: _____
Lydia Romero

APPROVED AS TO FORM:

By: _____
James P. Lough, City Attorney

2016 AMENDED CITY OF LEMON GROVE CITY MANAGER EMPLOYMENT

AGREEMENT WITH LYDIA ROMERO

EXHIBIT" A"

STATEMENT OF EARNINGS

During the period beginning _____ to _____ , I have received income of \$ _____ from employers other than the City of Lemon Grove.

During that same period, I have received net income of \$ _____ from _____ business endeavors requiring my personal labor.

I declare under penalty of perjury that this statement is true and correct.

By: _____
Lydia Romero